

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5380 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

M B RAVAL

Versus

STATE OF GUJARAT & OTHERS

Appearance:

MR PM RAVAL for the Petitioner

MR HL JANI for the Respondents.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/09/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties. The petitioner, a police inspector of the police department of the State of Gujarat, filed this writ petition and prayed therein that the respondents may be directed to consider his case for promotion to the post of Dy. Superintendent of Police qua his juniors who have been promoted in the year 1982. The prayer by amendment has been made for quashing of the proceedings of the Selection Committee dated 28th February, 1980, 21st

December, 1981 and 28th December, 1983.

2. It is not in dispute that the criteria for promotion to the post of Dy. Superintendent of police from the post of P.I. was proved merit and efficiency. The case of the petitioner was considered for promotion thrice i.e. on 22-2-1980, 21-12-1981 and 28-12-1983 by the Departmental Selection Committee, but on comparative merits he was not found meritorious in comparison to his juniors who have been promoted. The petitioner was not found to be a person of proved merit and efficiency and he has not been recommended for promotion. In the last meeting of Departmental Selection Committee, the case of superseded persons has been considered including the petitioner, but again this time, the Selection Committee has not recommended his case for promotion.

3. From the reply, it comes out that the petitioner has an average service record. His C.Rs. for the years 1978-79, and 1979-80 were average. Much emphasis has been laid on by the counsel for the petitioner that the adverse remark which has been given for the year 1980-81 has been expunged, and as such, his case should have been reconsidered. That point is not available to the petitioner for the reason that after expunction of this adverse remark, the petitioner's case was reconsidered on 28-12-1983.

4. This court will not sit as an appellate authority above the decision of the Departmental Selection Committee. In case, the petitioner was not found to be meritorious, then no interference is called for. The recommendations of the Selection Committee are questionable only where the petitioner has alleged the malafides against any of the members of the Selection Committee, which is not a case here. The criteria for promotion, as stated earlier, was proved merit and efficiency, and on comparative merits, the juniors could have been promoted. Moreover, the petitioner has not impleaded any of his juniors as a party to this Special Civil Application. The petitioner has a right of consideration for promotion and not a right of promotion.

5. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged.

zgs/-